MITIGATED NEGATIVE DECLARATION

June 30, 2005

Project Name: Sesi Property Closure Project, Otay Mesa Area

Project Number(s): County DEH – VX0718, City LDR No. 1980

This Document is Considered Draft Until it is Adopted by the Appropriate County of San Diego Decision-Making Body.

This Mitigated Negative Declaration is comprised of this form along with the Environmental Initial Study that includes the following:

a. Initial Study Form
b. Environmental Analysis Form and attached extended studies for biology, archaeology, traffic, noise, water quality, air quality.

1. California Environmental Quality Act Mitigated Negative Declaration Findings:

Find, that this Mitigated Negative Declaration reflects the decision-making body's independent judgment and analysis, and that the decision-making body has reviewed and considered the information contained in this Mitigated Negative Declaration and the comments received during the public review period; and that revisions in the project plans or proposals made by or agreed to by the project applicant would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur; and, on the basis of the whole record before the decision-making body (including this Mitigated Negative Declaration) that there is no substantial evidence that the project as revised will have a significant effect on the environment.

2. Required Mitigation Measures:

Refer to the attached Environmental Initial Study for the rationale for requiring the following measures:

BIOLOGY:

BR-1: Prior to the release of the grading bond and issuance of the Certification of Completion, the applicant shall provide a covenant of easement or conservation

easement to the satisfaction of the City Manager over an area within Spring Canyon and the MHPA for preservation of the following habitats: 0.28 acre of Diegan Coastal Sage Scrub; 1.08 acres Martimime Succulent Scrub; 0.05 acre non-native grassland; and 0.68 acres of riparian sycamore habitat . Mitigation measures are further outlined in Table 1 of the General Survey Report (Appendix III, Initial Study).

BR-2: Creation of 0.34 acre of riparian sycamore habitat in an unvegetated drainage entering Spring Canyon at the north and west end of the property, and revegetation of 0.07 acres of riparian willow scrub habitat at the toe of the created slope, as described in the Revegetation Plan (dated March 2004 and updated by changes in the General survey) in Appendix III-L of the Initial Study. City of San Diego approval is required for any revisions to the Revegetation Plan, including but not limited to: plant palette changes, remedial measures, maintenance requirements, and final approval of the Revegetation Plan pending accomplishment of 5-year success criteria.

BR-3: Enhancement of 0.34 acre of existing riparian habitat located immediately downstream of the project site in Spring Canyon by removing invasive tamarisk. Current disturbed/ruderal areas within the project site will be restored by planting and seeding with native species, thus creating an area of higher biological value and contributing to the functioning of the MHPA. Enhancement will be completed as described in the Revegetation Plan (dated March 2004 and updated by changes in the General survey)in Appendix III-L of the Initial Study.

BR-4: All revegetation areas will be maintained in accordance with the Revegetation Plan in Appendix III-L of the Initial Study. Maintenance and monitoring of all planted areas will be conducted at a minimum of once monthly during the first year and as needed for a period of no less than five years. Maintenance activities shall include weed eradication, maintenance of erosion control devices, maintenance of the irrigation system, trash removal, and replacement of dead or diseased plant materials as directed by the Project Biologist.

BR-5: Project limits shall be fenced or flagged prior to construction activities to avoid disturbance to preserved areas. When possible, vegetation clearing shall be conducted during the non-breeding season (October 1 through February 14) to limit impacts to nesting birds. If activities occur during the breeding season, a Biological Monitor will be present to prevent disruption of breeding birds that are protected by the Migratory Bird Treaty Act (MBTA). In addition, when construction activities are proposed within 500 feet of sensitive habitat (i.e., coastal sage scrub, southern willow scrub) during the breeding season, preconstruction surveys shall be conducted for all sensitive species potentially affected by increased noise levels caused by construction. If work is performed

during the bird breeding season, it shall not be done within 300 feet of any nesting bird protected by the MBTA unless noise barriers are utilized. In addition, construction activities within the MHPA boundaries will comply with the City Incidental Take Authorization that includes buffer zones of: 300 feet from any nesting site of Cooper's hawk; 900 feet from any nesting sites of northern harriers; 4,000 feet from any nesting sites of golden eagles (*Aquila chrysaetos*); 300 feet from any occupied burrow of burrowing owls. Noise barriers include but are not limited to carpet, hay bales, plastic, and other sound absorbing or deflecting devices that can be installed with minimal impacts.

BR-6: If the biologist finds any nesting avian species within or adjacent to the areas requiring clearing, then the biologist shall delineate the appropriate buffer zone around the area, based on the above criteria. This zone shall be marked with flagging. Construction or clearing shall not be conducted within this buffer zone until the biologist determines that the nest is no longer active. In addition, a qualified biologist shall be present at all preconstruction and pregrade meetings and will be onsite during vegetation removal. A Biological Monitor, as defined by the Revegetation Plan (Appendix III-L of the Initial Study), shall be hired and trained prior to construction to monitor construction activities at the project site where sensitive resources for protection and preservation have been identified. The biological monitor will be an individual familiar with the biology and ecology of southern California, especially sensitive birds.

BR-7: The Biological Monitor shall be present during clearing of habitat. If any listed or sensitive species are found, the Biological Monitor shall stop construction, and the City of San Diego shall be notified immediately. Construction will not resume until the City of San Diego has been contacted and has given direction regarding subsequent actions to be taken. The Biological Monitor has the authority to stop work temporarily in order to search for and remove any sensitive species found within the proposed impact area.

BR-8: All litter, trash, and construction debris shall be properly contained and disposed of at an appropriate site.

CULTURAL RESOURCES:

CR-1:

Prior to preconstruction (precon) meeting

1. Land Development Review (LDR) Plan Check

Prior to the issuance of a Notice to Proceed (NTP) or any permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, the Environmental Review Manager (ERM) of LDR shall verify

that the requirements for Paleontological Monitoring have been noted on the appropriate construction documents.

2. Letters of Qualification have been submitted to ERM

Prior to the recordation of the first final map, NTP, and/or, including but not limited to, issuance of a Grading Permit, Demolition Permit or Building Permit, the applicant shall provide a letter of verification to the ERM of LDR stating that a qualified Paleontologist, as defined in the City of San Diego Paleontological Guidelines, has been retained to implement the monitoring program.

3. Second Letter Containing Names of Monitors has been sent to Mitigation Monitoring Coordination (MMC).

   a. At least thirty days prior to the Precon Meeting, a second letter shall be submitted to MMC which shall include the name of the Principal Investigator (PI) and the names of all persons involved in the Paleontological Monitoring of the project.

   b. MMC will provide Plan Check with a copy of both the first and second letter.

4. Records Search Prior to Precon Meeting

At least thirty days prior to the Precon meeting, the qualified Paleontologist shall verify that a records search has been completed, and updated as necessary, and be prepared to introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities. Verification includes, but is not limited to, a copy of a confirmation letter from the San Diego Natural History Museum, other institution, or, if the record search was in-house, a letter of verification from the PI stating that the search was completed.

Precon Meeting

1. Monitor Shall Attend Precon Meetings

   a. Prior to beginning of any work that requires monitoring; the Applicant shall arrange a Precon Meeting that shall include the Paleontologist, Construction Manager and/or Grading Contractor, Resident Engineer (RE), Building inspector (BI), and MMC. The qualified Paleontologist shall attend any grading related Precon Meetings to make comments and/or suggestions concerning the Paleontological Monitoring Program with the Construction Manager and/or Grading Contractor.

   b. If the Monitor is not able to attend the Precon Meeting, the RE, or BI as appropriate, will schedule a focused Precon Meeting for MMC, Monitors, Construction Manager and appropriate Contractor's representatives to meet and review the job on-site prior to start of any work that requires monitoring.

2. Identify Areas to be monitored

At the Precon Meeting, the Paleontologist shall submit to MMC a copy of the site/grading plan (reduced to 11x17) that identifies areas to be monitored.

3. When Monitoring Will Occur

Prior to the start of work, the Paleontologist also shall submit a construction schedule to MMC through the RE, or BI, as appropriate, indicating when and where monitoring is to begin and shall notify MMC of the start date for monitoring.

During Construction

1. Monitor Shall be Present During Grading/Excavation

a. The qualified Paleontologist shall be present full-time during the initial cutting of previously undisturbed formations with high and moderate resource sensitivity, and shall document activity via the Consultant Site Visit Record (form). This record shall be faxed to the RE, or BI as appropriate, and MMC each month.

2. Discoveries

a. Minor Paleontological Discovery

In the event of a minor Paleontological discovery (small pieces of broken common shell fragments or other scattered common fossils) the Paleontologist shall notify the RE, or BI as appropriate, that a minor discovery has been made. The determination of significance shall be at the discretion of the qualified Paleontologist. The Paleontologist will continue to monitor the area and immediately notify the RE, or BI as appropriate, if a potential significant discovery emerges.

b. Significant Paleontological Discovery

In the event of a significant Paleontological discovery, and when requested by the Paleontologist, the city RE, or BI as appropriate, shall be notified and shall divert, direct, or temporarily halt construction activities in the area of discovery to allow recovery of fossil remains. The determination of significance shall be at the discretion of the qualified Paleontologist. The Paleontologist with Principal Investigator (PI) level evaluation responsibilities shall also immediately notify MMC staff of such finding at the time of discovery. MMC staff will coordinate with appropriate LDR staff.

3. Night Work

a. If night work is included in the contract

(1) When night work is included in the contract package, the extent and timing shall be presented and discussed at the precon meeting.

(2) The following procedures shall be followed:

(a) No Discoveries

In the event that nothing was found during the night work, the PI will record the information on the Site Visit Record Form.

(b) Minor Discoveries

(1) All Minor Discoveries will be processed and documented using the existing procedures under **During Construction** 2. a. with the exception that the RE will contact MMC by 9 A.M. the following morning.

(c) Potentially Significant Discoveries

(1) If the PI determines that a potentially significant discovery has been made, the procedures under **During Construction** 2.b., will be followed, with the exception that the RE will contact MMC by 8 A.M. the following morning to report and discuss the findings.

b. If night work becomes necessary during the course of construction

(1) The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.

(2) The RE, or BI, as appropriate, will notify MMC immediately.

c. All other procedures described above will apply, as appropriate.

4. Notification of Completion

The Paleontologist shall notify MMC and the RE, or BI as appropriate, of the end date of monitoring.

Post Construction

The Paleontologist shall be responsible for preparation of fossils to a point of curation as defined by the City of San Diego Paleontological Guidelines.

1. Submit Letter of Acceptance from Local Qualified Curation Facility.

The Paleontologist shall be responsible for submittal of a letter of acceptance to ERM of LDR from a local qualified curation facility. A copy of this letter shall be forwarded to MMC.

2. If Fossil Collection is not Accepted, Contact LDR for Alternatives

If the fossil collection is not accepted by a local qualified curation facility for reasons other than inadequate preparation of specimens, the project Paleontologist shall contact LDR, to suggest an alternative disposition of the collection. MMC shall be notified in writing of the situation and resolution.

3. Recording Sites with San Diego Natural History Museum

   The Paleontologist shall be responsible for the recordation of any discovered fossil sites at the San Diego Natural History Museum.

4. Final Results Report

   a. Prior to the release of the grading bond, two copies of the Final Results Report (even if negative), which describes the results, analysis, and conclusions of the above Paleontological Monitoring Program (with appropriate graphics) shall be submitted to MMC for approval by the ERM of LDR.

   b. MMC shall notify the RE or BI, as appropriate, of receipt of the Final Results Report.

LAND USE:

Mitigation measures BR-1 to 4 provide adequate mitigation for impacts to land use (See Biology section above). These mitigation measures ensure compliance with the City of San Diego Multiple Habitats Planning Area.

3. Critical Project Design Elements That Must Become Conditions of Approval:

The following project design elements were either proposed in the project application or the result of compliance with specific environmental laws and regulations and were essential in reaching the conclusions within the attached Environmental Initial Study. While the following are not technically mitigation measures, their implementation must be assured to avoid potentially significant environmental effects.

AIR QUALITY:

AQ-1: All clearing, grading, earth moving, or extraction activities shall be restricted to an area of no more than 4.8 acres at any one time.

AQ-2: Watering using a water truck shall occur at least three times daily or more as needed during clearing, grading and earth moving activities to prevent fugitive dust.

AQ-3: All clearing, grading, earth moving activities shall cease during periods of high winds to prevent excessive amounts of fugitive dust. High wind events shall be defined as winds

of such velocity as to cause fugitive dust from within the project boundary to be blown outside the Sesi Property boundary.

AQ-4: Onsite vehicle speeds shall not exceed 15 miles per hour.

AQ-5: Streets shall be swept at the end of the day if visible soil material is carried over, onto adjacent roads.

AQ-6: The project construction contractor shall monitor the wind speed and visually monitor for fugitive dust for the duration of construction activities.

AQ-7: Prior to initiating construction activities, the project construction contractor shall stabilize and maintain the roadway surfaces at site entrances to ensure construction traffic does not create fugitive dust.

NOISE:

N-1: Construction activities shall occur between 7:00 a.m. and 7:00 p.m. Monday through Friday and 8:00 a.m. to 7:00 p.m. on Saturdays. No construction shall occur Sundays or holidays.

N-2: All equipment shall have operating mufflers and engine shrouds.

N-3: Any stationary equipment shall be located as far from existing residences as is feasible.

WATER QUALITY:

WQ-1: Various post-closure measures would account for all project maintenance. These shall include visual inspection of drain pipes and channel flowlines for debris, other obstructions, breaks, and identification of areas where bank vegetation is overgrown or other conditions are impairing the functioning of the drainage channel. Maintenance shall include cleaning channel and pipes, regrading and shaping channel flowlines and slopes, reseeding slopes, or replacing damaged culverts.

WQ-2: BMPs shall be used to reduce water quality impacts during the construction. Specifically, the following shall be completed to divert storm water flow and prevent soil erosion: placement of temporary diversion structures, silt fences, sand bag basins and berms in and around work and slope areas. Soil stockpiles shall be covered during non-work hours to abate dispersion by both wind and rain. Periodic street sweeping shall be performed to prevent the tracking of soil onto Cactus Road. A gravel stabilized construction entrance shall be installed at all points where construction vehicles ingress and egress from the site to ensure that sediments are not tracked offsite. The stabilized

construction entrance shall be graded and maintained to prevent runoff from the site from flowing across the entrance onto public roads.

WQ-3: The contractors shall cover exposed waste during non-working hours with compacted clean soil to reduce water quality impacts.

WQ-4: During construction, the contractors shall divert surface water flows from disturbed areas and exposed waste to reduce water quality impacts.

WQ-5: Silt fences, earth berms, catch basins, and other containment structures would be constructed to contain any erosion or siltation that may result from the grading. Other appropriate storm water practices would be incorporated as consistent with construction sites. These measures shall be implemented during construction by the contractor.

WQ-6: The contractor shall check that trucks are cleared of excess soil adhering to the body of the trucks as a result of loading.

WQ-7: A Storm Water Pollution Prevention Plan, listing relevant BMPs and showing locations of control systems, and Water Quality Technical Report (WQTR) will be submitted to and approved by the City prior to construction. The plan shall be implemented during construction by the contractor.

ADOPTION STATEMENT: This Mitigated Negative Declaration was adopted and above California Environmental Quality Act findings made by the:

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on _____

GARY ERBECK, Director
Department of Environmental Health